



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
AIR AND RADIATION DIVISION  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**In the Matter of: Morgan Electro Ceramics**  
**CONFERENCE PURSUANT TO SECTION 113 OF THE CLEAN AIR ACT**  
**August 17, 2004**

**U.S. EPA OPENING STATEMENT**

Pursuant Section 113 of the Clean Air Act ("Act"), and upon the request of Respondent, Morgan Electro Ceramics (Morgan), U.S. EPA is providing Morgan this opportunity to confer with U.S. EPA regarding the finding of violation (FOV) dated July 2, 2004. The FOV alleges that Morgan has violated the federally approved Title V program for the State of Ohio, Section 503 of the Act, and the regulations at 40 C.F.R. §§ 70.1(b), 70.5(a) and 70.7(b).

**Regulatory Background**

Title V of the Act, 42 U.S.C. § 7661 et seq., established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(b), provides that each State submit to the Administrator of U.S.EPA a permit program meeting the requirements of Title V of the Act. Section 502(a) of the Act, 42 U.S.C. § 7661a(a) states that it is unlawful for an person to operate a major source or a source subject to standards or regulations promulgated under Section 112 of the Act, except in compliance with a permit issued by the permitting authority under Title V of the Act.

The regulation at 40 C.F.R. § 70.5(a) requires that each source subject to 40 C.F.R. Part 70 shall submit a timely application for a permit within 12 months after the source becomes subject to the permit program. The regulation at 40 C.F.R. § 70.7(b) prohibits a source from operating except in compliance with a permit issued under an approved Title V permit program.

Section 113(a)(3) of the Act provides that where U.S. EPA finds that any person has violated or is in

violation of any requirement or prohibition of, among other things, any rule promulgated under the Act, the Administrator may:

- (A) issue an order requiring compliance with the requirements or prohibitions of the Act;
- (B) issue an administrative penalty order;
- (C) bring a civil action for injunctive relief and/or assessment and recovery of civil penalties;
- (D) request the Attorney General to commence a criminal action.

#### Penalty Provisions

Sections 113(b) and 113(d) of the Act and the Debt Collection Improvement Act provide that violators are subject to civil penalties of \$25,000 (prior to January 31, 1997) and \$27,500 (after January 31, 1997) per day, per violation. Section 113(c) of the Act provides for criminal fines and imprisonment where any person, including any responsible corporate officer, knowingly violates certain provisions of the Act. In appropriate cases, U.S. EPA may seek non-compliance penalties under Section 120 of the Act. Finally, Section 306 of the Act, as implemented by 40 C.F.R. part 32, provides that facilities in violation of the Act may be ineligible for federal contracts, grants or loans.

#### Compliance

U.S. EPA will be most interested today in determining the specific actions Morgan has taken and will take to ensure that it achieves and maintains compliance with the Act. Morgan may also advise the Agency at this time of any other factors it believes U.S. EPA should consider before taking further actions to address the alleged violations.



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